

Bold = new language

~~Strikeout~~ = existing language deleted in this rulemaking

Bold and single underline = new language added since preliminary adoption

~~Strikeout and single underline~~ = existing language deleted since preliminary adoption

Single underline = change at preliminary adoption that is being changed back to preexisting language

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

PROPOSED RULE AS PRELIMINARILY ADOPTED WITH IDEM'S SUGGESTED CHANGES INCORPORATED

LSA Document #20-23

DIGEST

Amends 329 IAC 3.1-5-4, 329 IAC 3.1-5-7, and 329 IAC 3.1-6-1 concerning updates to the identification of solid waste for the purposes of hazardous waste management and related hazardous waste requirements. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: February 19, 2020, Indiana Register (DIN: 20200219-IR-329200023FNA).

Second Notice of Comment Period: February 9, 2022, Indiana Register (DIN: 20220209-IR-329200023SNA).

Notice of First Hearing: February 9, 2022, Indiana Register (DIN: 20220209-IR-329200023PHA).

Change in Notice of Public Hearing: August 24, 2022, Indiana Register (DIN: 20220824-IR-329200023CHA).

Date of First Hearing: November 9, 2022.

Proposed Rule and Third Comment Period: December 7, 2022, Indiana Register (DIN: 20221207-IR-329200023PRA).

Notice of Second Hearing: December 7, 2022, Indiana Register (DIN: 20221207-IR-329200023PHA).

Change in Notice of Public Hearing: May 10, 2023, Indiana Register (DIN: 20230510-IR-329200023CHA).

Date of Second Hearing: June 14, 2023.

329 IAC 3.1-5-4; 329 IAC 3.1-5-7; 329 IAC 3.1-6-1

SECTION 1. 329 IAC 3.1-5-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-5-4 Exemption from classification as a solid waste or to be classified as a boiler; adoption of federal procedures

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2

Sec. 4. Granting exemptions from classification as a solid waste or to be classified as a boiler must be performed in accordance with 40 CFR 260.30 through ~~40 CFR 260.33*~~. **40 CFR 260.34***, as amended by **83 FR 24667***.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana IN 46204. (*Solid Waste Management Division; 329 IAC 3.1-5-4; filed Jan 24, 1992, 2:00 p.m.: 15 IR 924; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 2. 329 IAC 3.1-5-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-5-7 Notification and legitimate recycling of hazardous secondary materials; adoption of federal procedures

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 4-22-2-21; IC 13-22-2

Sec. 7. (a) The notification and legitimate recycling requirements ~~for hazardous secondary materials~~ contained in 40 CFR 260.42* ~~and through~~ 40 CFR 260.43*, ~~are incorporated by reference,~~ as amended by **83 FR 24667 through 83 FR 24668***, apply to the management of hazardous secondary materials, with the substitutions noted in subsection (b).

(b) Delete "EPA Form 8700-12" and insert "forms provided by the commissioner" in:

(1) 40 CFR 260.42(a);

(2) ~~40 CFR 260.42(a)(9);~~ **40 CFR 260.42(a)(10); and**

(3) 40 CFR 260.42(b). ~~and~~

(4) ~~40 CFR 260.43(a)(4)(iii).~~

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, ~~732 North Capitol Street NW, Washington, D.C. 20401,~~ viewed at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana IN 46204. (*Solid Waste Management Division; 329 IAC 3.1-5-7; filed Oct 6, 2016, 1:20 p.m.: 20161102-IR-329160093FRA*)

SECTION 3. 329 IAC 3.1-6-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-1 Adoption of federal identification and listing of hazardous waste

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2-3

Sec. 1. (a) This rule identifies solid wastes that are subject to:

(1) regulation as hazardous waste under this article; and

(2) the notification requirements of 329 IAC 3.1-1.

(b) Except as provided in section 2 of this rule, the requirements of 40 CFR 261*, as amended by:

- (1) 81 FR 85713 through 81 FR 85715*;
- (2) 81 FR 85806*;
- (3) 82 FR 60900*;
- (4) 83 FR 24668 through 83 FR 24671*;**
- ~~(4)~~ **(5)** 83 FR 61562 through 83 FR 61563*;
- ~~(5)~~ **(6)** 84 FR 5938 through 84 FR 5939*; and
- ~~(6)~~ **(7)** 84 FR 67217*; and
- ~~(7)~~ **(8)** 85 FR 40608*;

apply to the identification and listing of hazardous waste.

(c) For purposes of this article, a reference to any part of 40 CFR 261 means the version referenced in subsection (b).

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana IN 46204. (*Solid Waste Management Division; 329 IAC 3.1-6-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 924; filed May 6, 1994, 5:00 p.m.: 17 IR 2062; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA; filed Jan 15, 2021, 1:37 p.m.: 20210210-IR-329200204FRA; filed Feb 22, 2023, 3:28 p.m.: 20230322-IR-329220216FRA*)